

To read DOJ statement, please click [here](#).

Washington, DC (Oct. 17, 2011) – Today, Rep. Elijah E. Cummings, the Ranking Member of the House Oversight and Government Reform Committee, issued a statement expressing serious concerns with statements made by Committee Chairman Darrell E. Issa in a Sunday interview on [CBS's Face the Nation](#). During that interview, Issa irresponsibly fueled baseless speculation that the FBI tampered with evidence to conceal a third gun that he alleges was recovered at the scene of Border Patrol Agent Brian Terry's murder. Issa did not disclose that the FBI had already dispelled these claims repeatedly both in public and in closed briefings with Committee staff.

In response to Issa's comments, Cummings stated:

"It is unbelievably reckless for Chairman Issa to go on national television and repeat these baseless accusations, which attack the integrity and credibility of entire law enforcement agencies and undermine the prosecution of those responsible for Agent Terry's death. In a closed briefing with Committee staff earlier this month, the FBI dispelled any allegation that they recovered a third gun at the scene, and the Committee has no evidence to the contrary."

On Sunday, host Bob Schieffer noted that "two guns connected to this operation were found at the scene of the crime," and explained that the "FBI has said the evidence was inconclusive as to whether those guns were the ones responsible for this murder." He then asked Issa about his claim that the FBI is withholding evidence about a third gun found at the scene:

Host Bob Schieffer: Are you suggesting that maybe that might be the gun, that evidence shows was the murder weapon, and for some reason the FBI has not disclosed that?

Chairman Issa: Well, we certainly want to know in some cases, as you know, there are investigations where there's materials that people feel are very sensitive.

Issa added that “the FBI has a history in some cases of working with felons and criminals and hiding their other crimes.”

In a press statement, the Department of Justice stated that Chairman Issa had spread a false accusation despite FBI's clear warnings that it was unsubstantiated, maligned the dedicated law enforcement agents responsible for investigating the murder of Agent Terry, and mischaracterized evidence in an ongoing investigation and pending prosecution.

Issa based his erroneous claim of a cover-up on supposed flaws in the FBI's evidence-marking procedure. Two firearms recovered at the scene were marked “K2” and “K3.” Issa suggested on Sunday that a firearm labeled “K1” must be missing: “when you have tickets that are numbered two and three and there's no ticket one, in other words, the weapon – one weapon has a two, one has a three on it, there's no one.” He claimed that it is “weapon number one that appears to be missing.” The Department of Justice has confirmed that “K1” is in fact a blood sample taken from Agent Terry, not a third suspect weapon.

On October 5, 2011, members of both the Majority and Minority staffs of the House Committee on Oversight and Government Reform and the Senate Committee on the Judiciary met with senior officials from FBI, DEA, and ATF. At the briefing, the FBI's Assistant Director for Criminal Investigative Division unequivocally stated that the FBI had not recovered a third potential murder weapon at the scene of Agent Terry's murder. He further stated that the FBI was offended by the allegation that FBI had tampered with evidence or was involved in a cover-up.

On September 19, 2011, the FBI Office in Phoenix responded to previous instances in which Issa made this claim:

“Recent news reports have discussed the FBI's investigation of the tragic death of Border Patrol Agent Brian Terry and the recovery of a third gun at the crime scene. The FBI does not comment on pending investigations, however, these news reports are inaccurate. The FBI is proud to serve the people of the United States with honor and integrity. Concealment of evidence does not serve justice or advance the mission to which this agency is committed. The apprehension and successful prosecution of all those responsible for the murder of Agent Terry remains the sole objective of the United States government.”

Issa's statements on Sunday continue an unfortunate pattern of reckless actions, including leaking a document that had been ordered sealed by a U.S. Federal District Court, interviewing a potential trial witness in the ongoing prosecution, and publicly discussing the use of confidential informants in ongoing investigations.

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"The FBI has made clear that reports of a third gun recovered from the perpetrators at the scene of Agent Terry's murder are false.

"When law enforcement analyzes evidence from a crime scene, it refers to some of the items seized as "known" items or "Ks" for shorthand. Certain items were analyzed as "known" items from the crime scene of Agent Terry's murder, including the two firearms referenced by Chairman Issa and designated by the FBI as Known Specimens "K2" and "K3". According to the FBI, the item that Chairman Issa refers to as "K1" is a blood sample from Agent Terry, not a firearm. For this reason, it was not listed on the ballistics report prepared by the FBI. Prior to his appearance on CBS this past Sunday, Chairman Issa's staff was informed that there were two - not three - guns recovered from the perpetrators at the scene of Agent Terry's murder.

"Unfortunately, this most recent false accusation not only maligns the dedicated agents investigating the murder of Agent Terry, it mischaracterizes evidence in an ongoing case. The prosecution arising from the murder of Agent Terry is ongoing. Therefore, further public comment is inappropriate."

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